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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

JUL 10 1992

Federal Communications Commission
Office of the Secretary

In re Applications of)
RIVERTOWN COMMUNICATIONS COMPANY, INC.)
For Construction Permit)
for a New FM Station in)
Eldon, Iowa)

File No. BPH-911008ME

To: Mass Media Bureau

PARTIAL OPPOSITION TO PETITION FOR LEAVE TO AMEND

Sample Broadcasting Company, L.P., ("Sample") by its attorney hereby partial opposes the Petition for Leave to Amend filed July 1992, by Rivertown Communications Company, Inc. ("Rivertown").

Rivertown's amendment reports that its president, David W. Brown, is now employed as general manager of Stations WAIK and WGBQ (FM) Galesburg, Illinois. The amendment also states that in the event of a grant of Rivertown's application, Mr. Brown will resign this position in order to devote full time to the management of Rivertown's Eldon station.

While Sample believes that Rivertown's amendment is required by Section 1.65 of the Commission's rules, the amendment is incomplete and raises questions which should be explored by the Commission.

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O'Connor 22 FCC 2d 140 (Rev. Bd. 1970) before its amendment may be accepted.

Attributable mass media interests acquired by a comparative applicant after the "B" cut off date must be reported to the Commission under Section 1.65 of its rules. That interest will not be attributed to the applicant for diversification purposes if it files a contemporaneous pledge to divest that interest if its application is granted. Jerome Thomas Lamprecht, 99 FCC 2d 1219 (Rev. Bd. 1984), review denied, 3 FCC Rcd 2527 (1988). Santee-Cooper Broadcasting Company of Hilton Head, Inc., 99 FCC 2d 781 (Rev. Bd. 1984), affirmed sub nom Women's Broadcasting Coalition, Inc., 59 RR 2d 730 (1986).

Rivertown's amendment is incomplete because it has failed to identify when Mr. Brown commenced his employment with the Galesburg radio stations. This information is required in order to determine Rivertown's compliance with Section 1.65 of the rules and the due diligence test of O'Connor. Without knowing the dates of Mr. Brown's management level employment with the Galesburg radio stations, the Commission cannot determine whether Mr. Brown's post "B" cut-off date divestiture commitment for his employment with the Galesburg stations was contemporaneous. If it is found to be late-filed, the amendment would necessitate a diversification demerit against Rivertown. Thomas Lamprecht, supra.

Rivertown's behavior may demonstrate a continuing lack of concern


It filed this post "B" cut-off date amendment nearly 60 days after the resignation and about 30 days beyond the time period set forth by Section 1.65 without even attempting to make the due diligence showing mandated by O'Connor, supra.

The public and all parties to this proceeding are prejudiced by Rivertown's apparent refusal to be promptly forthcoming with requisite details of Mr. Brown's employment and its repeated disregard for the Commission's amendment requirements.

Accordingly, the Commission should either consider adding a Section 1.65 reporting issue against Rivertown at the appropriate time or otherwise order Rivertown to produce evidence when Mr. Brown commenced employment at the Galesburg radio stations.

SAMPLE BROADCASTING COMPANY, L.P.

By


John S. Neely
Its Attorney

July 10, 1992

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CERTIFICATE OF SERVICE

I hereby certify that on this 10 day of July, 1982
a copy of the foregoing document was placed in the United States mail,
first class postage prepaid, addressed to the following:

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